

REMARKS

These remarks are in response to the Office Action dated June 6, 2003, which has a shortened statutory period for response set to expire September 8, 2003 (September 6 and 7 being a Saturday and Sunday, respectively). No extension of time is required.

Specification

The specification is objected to by the Examiner. The Examiner writes:

“The disclosure is objected to because of the following informality: On page 2, the phrase “Fig.3D” should be changed to --Fig. 1D--. Appropriate correction is required.”

The specification is amended herein as suggested by the Examiner, and Applicant respectfully requests withdrawal of the objection to the specification.

Claims

Claims 1-32 are pending in the above-identified application. Claims 24-28 are withdrawn by the Examiner pursuant to a restriction requirement. Claims 1-23 and 29-32 are rejected over prior art. Claims 1-23 and 30-32 are amended, Claim 29 remains as filed, and Claims 33-34 are added. Reconsideration is requested.

Rejections Under 35 U.S.C. § 112

Claims 1-23 and 30-32 are rejected under 35 U.S.C. § 112, second paragraph. The Examiner writes:

“Claims 1-23 & 30-32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In Claim 1, it is unclear as to whether the applicant is claiming a “computer housing” in combination with the “door”. The preamble does not specifically claim a computer housing, e.g., “for an opening in a computer housing”, but further down in the claim there appears to be a positive recital of structure (line 2, “bracket pivotally connected to said computer housing”) indicating that the combination of the housing and door may be positively being claimed. Applicant is required to clarify the disclosed claimed material, making the language of the claims consistent with applicant’s intent. In claims 2-23 & 30-32, the

phrase "A door..." is a double inclusion of the previously defined "A door" recited in the independent claims [the examiner suggests --The door according to claim....--]."

Claim 1, 6, 11, 16, and 22

As amended herein, Claims 1, 6, 11, 16, and 22, and new Claims 33-34 recite (in part) a bracket "adapted to facilitate pivotal engagement with said computer housing...", which is consistent with Applicant's intent **not** to claim the computer housing in combination with the door. ✓

Claims 2-5, 7-10, 12-15, 17-21, 23, and 30-32

The preamble of each of dependent Claims 2-5, 7-10, 12-15, 17-21, 23, and 30-32 has been changed from "A door according to Claim..." to "The door of Claim...", as suggested by the Examiner. ✓

For the above reasons, Applicant requests reconsideration and withdrawal of all rejections under 35 U.S.C. § 112.

Rejections Under 35 U.S.C. § 102

Claims 1-3, 8-10, 15, 21-23 & 29-32 are rejected under 35 U.S.C. § 102 (b) as being anticipated by Lee et al. (US 5,926,916). The Examiner writes:

"The examiner has taken the position that the computer housing is not being claimed in combination with the door. Lee (figures 1-11) teaches of a door for an opening, the door comprising: a bracket (22) capable of pivotal connection to a supporting structure; a cover (3) elastically mounted to the bracket; and a biasing member (29) disposed to urge the cover against the bracket. The cover including a back surface (fig. 4) and the bracket is coupled to the back surface. The bracket including a plurality of posts (referenced as element (21) in fig. 4) while the cover includes a plurality of receiving apertures for receiving the posts. The bracket being able to pivot about an axis adjacent to the opening. The bracket and cover forming an assembly which includes a smooth rear surface (see fig.4 for example)."

Applicant respectfully traverses.

The standard for anticipation is set forth in M.P.E.P. § 2131 as follows:

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). “The identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Claim 1-3, 8-10, 15, 21, and 23

As amended herein, Claim 1 recites:

1. A door for an opening in a computer housing, said door comprising:
a bracket having a first portion and a second portion, said first portion adapted to facilitate pivotal engagement with said computer housing, whereby said bracket can pivot about an axis; and
a cover elastically mounted to said second portion of said bracket, whereby said cover is supported by said bracket.

Lee et al. do not describe a door for an opening in a computer housing including a cover “elastically mounted to said second portion of said bracket, whereby said cover is supported by said bracket,” as recited by amended Claim 1. As shown in FIG. 5 of Lee et al., hinge pins 20 support door 3, and not lever 22. Indeed, it does not appear that lever 22 could in any way structurally support the cover 3.

The amendments made to Claim 1 are intended to further distinguish the present invention over the cited prior art, and are believed to obviate the rejections of Claims 2-3, 8-10, 15, 21, and 23, because each of those claims depends either directly or indirectly from Claim 1. Therefore, the rejections of Claims 2-3, 8-10, 15, 21, and 23 are not discussed herein in detail. However, Applicant does not acquiesce in the propriety of the rejections of those claims. Indeed, Applicant believes Claims 2-3, 8-10, 15, 21, and 23 each contain inventive subject matter in their own right. For example, lever 22 (characterized by the Examiner as the claimed bracket) is not elastically coupled to the back surface of cover 3, as recited in Claim 2. As another example, biasing member 29 does not urge cover 3 against lever 22 as indicated in Claim 3.

Because Lee et al. do not disclose all of the limitations of Claim 1, the cited reference does not anticipate Claim 1. Claims 2-3, 8-10, 15, 21, and 23 depend either directly or indirectly from Claim 1 and are therefore distinguished from the cited prior art for at least the reasons given above with respect to Claim 1. For the forgoing reasons, Applicant respectfully requests reconsideration and withdrawal of the rejections under 35 U.S.C. § 102 of Claims 1-3, 8-10, 15, 21, and 23.

Claims 29-32

As originally filed, Claim 29 recites “means for elastically mounting said cover to said bracket,” and therefore must be interpreted according to the provisions of 35 U.S.C. § 112, paragraph 6, which provides:

An element in a claim for a combination may be expressed as a means or step for performing a specified function without the recital of structure, material, or acts in support thereof, and such claim shall be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof.

M.P.E.P. § 2106 sets forth the procedure for examination of means plus function claims, and provides:

Where means plus function language is used to define the characteristics of a machine or manufacture invention, claim limitations must be interpreted to read only on the structures or materials disclosed in the specification and “equivalents thereof.” (Two *en blanc* decisions of the Federal Circuit have made clear that the Office is to interpret means plus function language according to 35 U.S.C. 112, sixth paragraph. In the first, *In re Donaldson*, 16 F.3d 1189, 1193, 29 USPQ2d 1845, 1848 (Fed. Cir. 1994), the court held:

The plain and unambiguous meaning of paragraph six is that one construing means-plus-function language in a claim must look to the specification and interpret that language in light of the corresponding structure, material, or acts described therein, and equivalents thereof, to the extent that the specification provides such disclosure. Paragraph six does not state or even suggest that the PTO is exempt from this mandate,

and there is no legislative history indicating that Congress intended that the PTO should be. Thus, this court must accept the plain and precise language of Paragraph six.

Consistent with *Donaldson*, in the second decision, *In re Alappat*, 33 F.3d 1526, 1540, 31 USPQ2d 1545, 1554 (Fed. Cir. 1994) (in *blanc*), the Federal Circuit held:

Given *Alappat's* disclosure, it was error for the Board majority to interpret each of the means clauses in claim 15 so broadly as to "read on any and every means for performing the function" recited, as it said it was doing, and then to conclude that claim 15 is nothing more than a process claim wherein each means clause represents a step in that process.

Applicant respectfully asserts that nothing in the cited reference can be fairly characterized as an equivalent to the means for elastically mounting a cover to a bracket as disclosed in Applicant's specification. For example, Applicant's specification discloses a cover elastically mounted to the bracket to allow translational movement of the cover with respect to the bracket to prevent jamming of the cover in an opening of a housing. In contrast, the cited reference discloses a lever 22 that is pivotally mounted in a door 3 to facilitate the extension/retraction of a hinge pin 20. The coupling between lever 22 and cover 3 does not facilitate any translational movement between lever 22 and door 3, only pivotal motion. Thus, Claims 29-32 when properly interpreted according to 35 U.S.C. § 112, Paragraph 6 do not read on the structure of the cited reference.

For the above reasons, Applicant requests reconsideration and withdrawal of the rejections under 35 U.S.C. § 102 of Claims 29-32.

Rejections Under 35 U.S.C. § 103

Claims 4-5, 7, and 13-14 are rejected under 35 U.S.C. § 103 as being unpatentable over Lee et al.. The Examiner writes:

"Lee teaches applicant's inventive claimed concept as disclosed above, including a channel (13) for receiving an end of the biasing member; but does not show the biasing member as being an integral part of the bracket, or show the biasing member

as including a flat spring, or show the cover with a beveled edge. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the device of Lee so as to incorporate a bracket with integral biasing member, incorporate a flat spring and form the cover with a beveled edge because it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art [additionally, the position could be taken that the prior art teaches an integral bracket with biasing means since the term “integral” may be broadly interpreted as meaning “a whole or complete unit” – a recitation that “the bracket and biasing means are integrally formed” for example imparts a different meaning]. As to the flat spring, it would have been obvious to one having ordinary skill in the art at the time the invention was made to vary the type of biasing means utilized, since it has been held to be within the general skill of a worker in the art to select a known biasing element on the basis of its suitability for the intended use as a matter of obvious design choice. As to the beveled edge, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the edge of the cover so as to incorporate a beveled edge because this well known machine procedure would afford a greater tolerance between the cover and adjacent structural members near the opening, reducing the possibility of binding between these members.”

Applicant respectfully traverses.

M.P.E.P. §2143 sets forth the requirements of a *prima facie* case of obviousness:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

Claims 4-5, 7, and 13-14

As stated above, the prior art reference does not teach or suggest all the claim limitations of amended Claim 1. Claims 4-5, 7, and 13-14 depend either directly or indirectly from Claim 1,

and are therefore distinguished from the cited prior art for at least the reasons given above with respect to Claim 1.

Claim 4

Claim 4 is amended herein to recite that the “biasing member is integrally formed with said bracket” for clarification. Lee et al. do not teach or suggest a biasing member integrally formed with a bracket, nor do they provide any motivation or suggestion for such a modification.

Claims 5 and 7

With respect to Claim 5, Lee et al. do not teach or suggest the use of a biasing member including a flat spring. It is unclear to Applicant how the bracket taught by Lee et al. could be modified to incorporate a flat spring and preserve its function, especially because the only type of motion is pivotal. The Examiner asserts only that it would be obvious to incorporate a flat spring into the device of Lee et al. “on the basis of its suitability for the intended use as a matter of obvious design choice.” However, no specific suggestion or motivation for such a modification of the cited reference is provided. Applicant notes that the claimed invention must be considered as a whole, and the issue is not simply whether it is obvious to substitute a flat spring for a coil spring, but whether there is some suggestion or motivation to so modify the prior art to obtain Applicant’s claimed invention. For the above reasons, Applicant respectfully asserts that no prima facie case of obviousness is established with respect to Claim 5, and requests reconsideration and withdrawal of the rejection of Claim 5 under 35 U.S.C. §103.

Claim 7 depends directly from Claim 5, and is therefore distinguished from the prior art for at least the reasons given above with respect to Claim 5. Additionally, even if the cited reference were modified to include a flat spring, there is no motivation or suggestion to modify the particular structure of the cited reference to include “a channel disposed to receive said flat spring,” as recited in Claim 7. Therefore, Applicant respectfully asserts that no prima facie case of obviousness is established with respect to Claim 7, and requests reconsideration and withdrawal of the rejection of Claim 7 under 35 U.S.C. §103.

Claims 13-14

With respect to Claim 13, Lee et al. do not teach or suggest that the “cover includes a beveled edge,” as recited by Claim 13. Furthermore, Applicant asserts that there would be no motivation for the cover 3 of the device taught by Lee et al. to include a beveled edge because the cover 3, as shown in FIG. 1 of Lee et al., fits completely within the rectangular opening of the computer housing when in a closed position. Note also that the opening is only bounded on the top and bottom, and not on the sides where the door 3 is hinged. Thus, there is no issue of jamming.

Again, Applicant points out that the invention must be considered as a whole. In particular, in Applicant’s invention, the beveled edges in combination with the elastic mount of the cover facilitates self-alignment of the cover and prevents jamming. However, in the cited reference door 3 moves only pivotally with respect to the opening, and there is no translational motion of door 3 with respect to the opening. Because jamming and/or aligning motion are not an issue in the door of the cited reference, beveling one or more edges of door 3 would be unnecessary, and there is therefore no suggestion or motivation to do so. Therefore, no prima facie case of obviousness is established with respect to Claim 13.

Claim 14 depends directly from Claim 13 and is therefore distinguished from the cited prior art for at least the reasons provided above with respect to Claim 13. Further, there is no teaching or suggestion in the prior art to provide an alignment feature and a complementary alignment feature that “loosely engage one another to allow said beveled edge to self-align within a beveled seat of said opening in said housing,” as recited in Claim 14. As indicated above, door 3 of the cited reference moves only pivotally with respect to the housing opening.

For the above reasons Applicant requests reconsideration and withdrawal of the rejections under 35 U.S.C. § 103 of Claims 4-5, 7, and 13-14.

Allowable Subject Matter

The Examiner indicates that Claims 6, 11-12, 16-20, and 22 would be allowable if rewritten in independent form to overcome the rejections under 35 U.S.C. 112, second paragraph, set forth in this office action and to include all of the limitations of the base claim and any intervening claims.

Claims 6, 11, 16, and 22 are amended herein to be in independent form and to include the limitations of original base Claim 1 and any intervening claims. Additionally, as stated above,

the amendments made to Claims 6, 11-12, 16-20, and 22 are believed to overcome the rejections under 35 U.S.C. § 112 as set forth by the Examiner.

For the foregoing reasons, Applicant believes Claims 6, 11-12, 16-20, and 22 are in condition for allowance.

Newly Added Claims

New Claims 33-34 are added. Support for Claim 33 can be found in Applicant's original specification at least at page 6, lines 24-26, page 9, lines 21-24 and in FIG. 5B. Support for Claim 34 can be found in Applicant's original specification at least at Page 7, lines 25-26, page 8, lines 10-11, and in FIG. 4. No new matter is added.

Interview Summary

Applicant concurs with the Interview Summary mailed September 4, 2003 by the Examiner. Additionally, Applicant requested and the Examiner provided clarification regarding the characterization of the cited reference.

For the foregoing reasons, Applicant believes Claims 1-23 and 29-34 are in condition for allowance. Should the Examiner undertake any action other than allowance of Claims 1-23 and 29-34, or if the Examiner has any questions or suggestions for expediting the prosecution of this application, the Examiner is requested to contact Applicant's attorney at (269) 279-8820.

Respectfully submitted,

Date: 9/8/03

Larry E. Henneman, Jr.
Larry E. Henneman, Jr., Reg. No. 41,063
Attorney for Applicant
Henneman & Saunders
714 W. Michigan Ave.
Three Rivers, MI 49093

CERTIFICATE OF MAILING (37 CFR 1.8(A))

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date: 9/8/03

Larry E. Henneman, Jr.
Larry E. Henneman, Jr.